

092/01664 A05

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: A. REFUAH, et al.  
Serial Number: 09/601,385  
Filed: July 28, 2000  
For: PERSONALIZED INTERNET INTERACTION BY ADAPTING A PAGE  
FORMAT TO A USER RECORD  
Art Unit: 2151  
Examiner: Dinh, Khanh Q

Mail-Stop Petition,  
Assistant Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.181  
TO WITHDRAW FINALITY

Sir:

In the above referenced application, the Examiner issued a final office action which does not meet the standards of the US patent office for issuing an office action and certainly not a final action and does not serve in forwarding the application towards allowance. The office action does not relate to applicants' remarks and in fact does not relate to the language of the claims in more than simply citing them. Therefore, the office action does not serve in developing a clear issue between applicants and the Examiner, as required by MPEP 706.07. As the present application is already pending over five and a half years, applicants are petitioning for withdrawal of the office action and issuance of a corrected office action which meets the standards of the USPTO.

**Reasons of petition**

In response to a previous office action, applicants amended the only independent claim in the application, claim 136, by adding the clause: "(b) providing to the site, a user profile record of the user transmitting the request, by an entity not associated with the site;"

In addition, applicants argued dependent claims 117, 138, 158 and 164, of which claims 158 and 164 are new.

In the present office action, issued December 30, 2005, the Examiner included a section titled "response to arguments", but did not relate in this section to any of applicants' arguments. The only argument to which the Examiner related was to an argument that applicants did not present at all. In fact, the argument to which the Examiner related refers to an amendment of

claim 136 which applicants specifically stated broadens the claim, and was not presented in any way as overcoming the art of record.

Regarding the dependent claims, the Examiner stated that they are rejected "at least by virtue of their dependency" and by other reasons set forth in the previous office action. Applicants note that dependency on an allowed claim can be a reason for allowance of a dependent claim. However, it is not a reason for rejection of a dependent claim over the art.

The Examiner did not relate to applicant's arguments regarding claim 117, but merely repeated the rejection. Neither did the Examiner relate to applicant's arguments regarding claims 138, 158 and 164.

In a telephone conversation on January 25, 2006, between applicant's agent and the Examiner, applicant's agent queried as to why there was no relation to applicant's arguments in the rejection. In response, the Examiner pointed to the citations from Gerace in the rejection itself as explaining the rejection. This does not meet the standards outlined in the MPEP.

In the rejection section of the office action, however, the Examiner merely cited the newly added limitation and did not provide any citation or explanation of the rejection. For the entire claim, the Examiner related to the same passages of the prior art as in the previous office action, with no changes due to the amended wording (except some reorganization due to the changed wording).

Applicants submit that in the absence of a properly formulated final rejection it is impossible to determine if an appeal should be filed, not to mention preparing a reasonable appeal brief.


#### **Conclusion**

In the interest of speeding up the prosecution of the present application, which is pending for over five and a half years, applicants respectfully request retraction of the pending final office action and issuance of a corrected office action.

Applicants believe that no fee is required for this petition. However, if the office deems otherwise, please charge deposit account number 03-3419 for the appropriate fee

Respectfully submitted,

A. REFUAH et al.

  
Paul FENSTER  
Registration No. 33,877

February 16, 2006

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PTO/SB92 (08-00)

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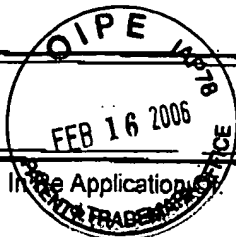
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Applicant: Aviv Refuah et al  
Serial No: 09/601,385  
Filing Date: July 28, 2000  
For: Personalized Internet Interaction By Adapting A Page Format To A User Record  
Enclosures: (1) Transmittal Letter (in duplicate);  
(2) Petition Under 37 CFR § 1.181 To Withdraw Finality (3 pages);  
(3) Acknowledgement postcard

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**TRANSMITTAL LETTER**  
(General - Patent Pending)

Docket No.  
092/01664

In Re Application of: Aviv REFUAH et al.

Application No.  
09/601,385

Filing Date  
July 28, 2000

Examiner  
Dinh, Khanh Q.

Customer No.  
44909

Group Art Unit  
2151

Confirmation No.  
2933

Title: **PERSONALIZED INTERNET INTERACTION BY ADAPTING A PAGE FORMAT TO A USER RECORD**

COMMISSIONER FOR PATENTS:

Transmitted herewith is:

Petition under 37 CFR 1.181 to Withdraw Finality

in the above identified application.

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*Paul Fenster*

Signature

Dated: February 16, 2006

Paul FENSTER, Reg. No. 33,877

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